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APPENDIX III.

[Vide item II on page 23 supra.]

REPORT OF THE SELECT COMMITTEE ON THE MADRAS CITY TENANTS' PROTECTION (AMENDMENT) BILL, 1959 (L.A. BILL No. 26 OF 1959).

To

THE HONOURABLE THE LEGISLATIVE ASSEMBLY, MADRAS.

The Select Committee appointed to consider the Madras City Tenants' Protection (Amendment) Bill, 1959 (L.A. Bill No. 26 of 1959), has the honour to make the following report.

2. The Bill was published in English in Part IV-A of the *Fort St. George Gazette* Extraordinary, dated 10th December 1959, and in Tamil in the *Fort St. George Gazette,* dated 16th December 1959.

3. The Committee was appointed on 17th December 1959.

4. The Committee met in the Committee Room, Legislators' Hostel, on the 20th January 1960, 26th and 27th February 1960 and in the Lounge Room, Fort St. George, on the 14th and in the Committee Room, Legislators' Hostel, on the 18th March 1960.

5. At the first meeting of the Committee on the 20th January 1960, the Committee decided that it was not necessary to invite any memoranda on the Bill from the public or to take any oral evidence as a large number of representations had already been received and were duly taken note of.

The Committee has subjected the clauses of the Bill to a detailed scrutiny and as a result thereof made changes in them. The changes are noted below :—

Clause 2.—This clause seeks to exempt tenancies of land owned by local bodies from the scope of the Act and also empowers the Government to cancel a notification issued under existing section 1 (2). The Committee decided that the notifications issued under sub-section (2) or under sub-section (4) should be laid before the Legislature and should be approved by the Legislature by a resolution moved within a period of fifteen days from the date on which the notifications are so laid. The clause has been amended accordingly and a new sub-section, viz., sub-section (6) has been added to section 1.

Clause 3.—The clause seeks to amend section 2 of the Act which deals with definition of 'Building'. In the original Bill 'Building' meant buildings used for residential purposes in all areas in the State. The Committee decided that the definition should be modified so as to mean both residential and non-residential buildings in the City of Madras and in the Municipal towns of Madurai, Tiruchirappalli, Salem and Coimbatore and only residential buildings in other places. The clause has been amended accordingly.

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Clause 4.—This clause seeks to amend sections 6 and 7 of the Act by substituting the figure and word '2 annas ' by the words ' twelve naye Paise '. The Committee decided that the rent payable may be enhanced by ' twenty-five naye Paise '. The clause has been amended accordingly.

Clause 5.—This clause seeks to amend section 8 of the Act by providing an appeal against the orders passed by Court under sections 6, 7 and 7-A. Verbal alteration has been made by substituting the figure and word ' 8A by 9A '. This clause also makes it clear that the rent once fixed should not be revised for a period of five years.

Clause 6.—Clause 6 of the Bill has been numbered as clause 7. New clause 6 proposes an amendment to section 9 of the Act. It provides among other things for the Court : (1) to fix the sale price on application; (2) to decide the minimum extent of the land which may be necessary for the convenient enjoyment by the tenant; and (3) to fix the level of such price at the average market value of the three years immediately preceding the date of the order.

Clause 7.—This corresponds to clause 6 of the Bill and provides for the insertion of new section relating to appeals. The number of this new section, viz., 8A in the Bill has been changed to 9A. The proposed section did not provide for appeal in the case of orders passed in the Small Cause Court in the City of Madras. Specific provision has now been made by adding a proviso to that effect.

Clause 8.—This is a new clause and is intended to make a consequential amendment.

Clause 9.—This is clause 7 of the Bill and it provided that all proceedings relating to non-residential buildings pending on the date of the first publication of the amending Act should abate. The Committee decided that any suit or proceeding in which the decree or order passed has been executed or satisfied in full before the publication of this Act should be valid. The clause has been amended accordingly.

6. A copy of the Bill as amended and approved by the Select Committee is appended.

7. The Committee considers that the changes made by it are not of such important character as to require the republication of the Bill.

FORT ST. GEORGE, MADRAS.
18*th March* 1960.

M. A. MANICKAVELU,
Chairman.

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ANNEXURE.

[Vide paragraph 6 of the Report]

[NOTE.—The changes made are sidelined or underlined and the portions omitted are indicated by dots]

A Bill further to amend the Madras City Tenants' Protection Act, 1921.

WHEREAS it is expedient further to amend the Madras City Tenants' Protection Act, 1921 (Madras Act III of 1922), for the purposes hereinafter appearing;

BE it enacted in the Eleventh Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Madras City Tenants' Protection (Amendment) Act, 1960.

2. *Amendment of section* 1, *Madras Act III of* 1922.—In section 1 of the Madras City Tenants' Protection Act, 1921 (Madras Act III of 1922) (hereinafter referred to as the principal Act),—

(i) to sub-section (3), the following proviso shall be added, namely:—

'Provided that nothing containing in this Act shall apply to tenancies of land owned—

(*a*) in the City of Madras, by the Corporation of Madras,

(*b*) in any other municipal area, by the municipal council concerned,

(*c*) in any area in a district as defined in the Madras District Boards Act, 1920 (Madras Act XIV of 1920), which is comprised within the local limits of a panchayat constituted under the Madras Village Panchayats Act, 1950 (Madras Act X of 1950), or of a panchayat or panchayat union constituted under the Madras Panchayats Act, 1958 (Madras Act XXXV of 1958), by the panchayat or by the panchayat union council concerned.

(*d*) in the case of all areas in a district defined as aforesaid, which are not comprised within the local limits of such panchayat or panchayat union by the district board concerned, and

(*e*) by the Board of Trustees for the Improvement of the City of Madras constituted under the Madras City Improvement Trust Act, 1950 (Madras Act XXXVII of 1950)';

(ii) after the same sub-section, the following sub-sections shall be added, namely:—

'(4) The State Government may, by notification in the *Fort St. George Gazette*, cancel . . . any notification issued under sub-section (2), but the cancellation shall not be deemed to affect the power of the State Government under sub-section (2) again to extend this Act to such town or village.

(5) Where a notification is issued under sub-section (4), every proceeding pending on the date of the publication of such notification and instituted under the provisions of this Act as extended by virtue of the notification issued under sub-section (2) which has been cancelled . . . by such notification, shall abate and all rights and privileges which may have accrued immediately before such date to any person by virtue of this Act as extended shall cease and determine and shall not be enforceable:

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Provided that nothing contained in this sub-section shall be deemed to invalidate any suit or proceeding in which the decree or order passed has been executed or satisfied in full before the date mentioned in this sub-section.

(6) Every notification issued under sub-section (2) or sub-section (4) shall be laid before the Legislature, if it is sitting, as soon as may be after the issue of the notification, and if it is not sitting, within seven days of its re-assembly, and the State Government shall seek the approval of the Legislature to the notification by a resolution moved within a period of fifteen days beginning with the day on which the notification is so laid before it; and if the Legislature makes any modification in the notification or directs that the notification should cease to have effect, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, but without prejudice to the validity of anything previously done thereunder.'

3. *Amendment of section* 2, *Madras Act III of* 1922.—In section 2 of the principal Act,—

(i) for clause (1), the following clause shall be substituted, namely:—

" (1) ' Building ' means any building, hut or other structure, whether of masonry, bricks, wood, mud, metal or any other material whatsoever used—

(i) for residential or non-residential purposes, in the City of Madras, in the municipal towns of Coimbatore, Madurai, Salem and Tiruchirappalli, and in any village within five miles of the City of Madras or of the municipal towns aforesaid, and

(ii) for residential purposes only, in any other area, and includes the appurtenance thereto.";

(ii) for clause (4), the following clause shall be substituted, namely :—

" (4) ' Tenant ' in relation to any land—

(i) means a person liable to pay rent in respect of such land, under a tenancy agreement, express or implied, and

(ii) includes—

(*a*) any such person as is referred to in sub-clause (i) who continues in possession of the land after the determination of the tenancy agreement, and

(*b*) the heirs of any such person as is referred to in sub-clause (i) or sub-clause (ii) (*a*) ;

but does not include a sub-tenant or his heirs."

4. *Amendment of sections* 6 *and* 7, *Madras Act III of* 1922.—In the proviso to sub-section (1) of section 6 and in the proviso to section 7 of the principal Act, for the figure and word " 2 annas ", the words " twenty-five naye Paise " shall be substituted.

5. *Amendment of section* 8, *Madras Act III of* 1922.—In section 8 of the principal Act, for the words " shall have effect as a decree in a suit and the rent so fixed shall not be revised nor shall the tenant be liable to be evicted for a period of five years ", the

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words, figure and letter "shall, subject to the provisions of section 9-A, have effect as a decree in a suit and for a period of five years the rent so fixed shall not be revised nor shall the tenant be liable to be evicted for the said period." shall be substituted.

6. *Amendment of section* 9, *Madras Act III of* 1922.—In section 9 of the principal Act,—

(i) sub-section (1) shall be lettered as clause (*a*) of that sub-section, and in the clause as so lettered,—

(*a*) for the words 'to sell the land for a price to be fixed by the court', the words 'to sell for a price to be fixed by the court, the whole or part of, the extent of land specified in the application' shall be substituted ;

(*b*) the sentence commencing with the words 'The court shall fix' and ending with the words 'with or without interest' shall be omitted;

(ii) after clause (*a*) as so lettered, the following clause shall be added, namely:—

"(*b*) On such application, the court shall first decide the minimum extent of the land which may be necessary for the convenient enjoyment by the tenant. The court shall then fix the price of the minimum extent of the land decided as aforesaid, or of the extent of the land specified in the application under clause (*a*), whichever is less. The price aforesaid shall be the average market value of the three years immediately preceding the date of the order. The court shall order that within a period to be determined by the court, not being less than three months and not more than three years from the date of the order, the tenant shall pay into court or otherwise as directed, the price so fixed in one or more instalments with or without interest.";

(iii) in sub-section (2), for the words, brackets and figure 'under sub-section (1)', the words, brackets, letter and figure 'under clause (*a*) of sub-section (1)' shall be substituted ;

(iv) for sub-section (3) and the Explanation thereunder, the following shall be substituted, namely:—

"(3) (*a*) On payment of the price fixed under clause (*b*) of sub-section (1), the court shall pass an order directing the conveyance by the landlord to the tenant of the extent of land for which the said price was fixed. The court shall by the same order direct the tenant to put the landlord into possession of the remaining extent of the land, if any. The stamp duty and registration fee in respect of such conveyance shall be borne by the tenant.

(*b*) On the order referred to in clause (*a*) being made the suit or proceeding shall stand dismissed, and any decree or order in ejectment that may have been passed therein but which has not been executed shall be vacated.

Explanation.—'Land' means the interest of the landlord in the land and all other interests which he can convey under any power and includes also the full interest which a trustee can convey under the power possessed by him to convey trust property when necessity exists for the same or the alienation of the property is for the benefit of the estate or trust."

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7. *Insertion of new section 9-A in Madras Act III of* 1922.—After section 9 of the principal Act, the following section shall be inserted, namely:—

"9-*A. Appeals.*—An appeal shall lie from an order passed by a court under section 6, section 7, section 7-A or section 9 to the court to which an appeal would lie from any decree passed by the former court and the decision in such appeal shall be final:

Provided that from an order passed—

(i) by the Chief Judge of the Presidency Small Cause Court, an appeal shall lie to the High Court, and

(iii) by any other Judge of the Presidency Small Cause Court, an appeal shall lie to the Chief Judge."

8. *Amendment of section* 10, *Madras Act III of* 1922.—In sub-section (1) of section 10 of the principal Act, for the words and figures, "Sections 4, 5, 6, 8 and 9", the words, figures and letter "Sections 4, 5, 6, 8, 9 and 9-A" shall be substituted.

9. *Certain pending proceedings to abate.*—Every proceeding pending before any court, other than a proceeding relating to any property situated in—

(i) the City of Madras,

(ii) the municipal towns of Coimbatore, Madurai, Salem and Tiruchirappalli, and

(iii) any village within five miles of the City of Madras or of the municipal towns aforesaid, on the date of the publication of this Act in the *Fort St. George Gazette*, and instituted under the provisions of the principal Act, shall, in so far as such proceeding relates to non-residential buildings, abate, and all rights and privileges which may have accrued immediately before such date to any person in respect of any property situated in any area other than the areas referred to above by virtue of the principal Act shall, in so far as they relate to non-residential buildings, cease and determine and shall not be enforceable:

Provided that nothing contained in this section shall be deemed to invalidate any suit or proceeding in which the decree or order passed has been executed or satisfied in full before the date mentioned in this section.

FORT ST. GEORGE, MADRAS,
18*th March* 1960.

T. HANUMANTHAPPA,
Secretary.